

05-17-04

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PTO/SB/36 (05-03)

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**RESCISSION OF PREVIOUS
NONPUBLICATION REQUEST
35 U.S.C. 122(b)(2)(B)(ii)
AND, IF APPLICABLE,
NOTICE OF FOREIGN FILING
(35 U.S.C. 122(b)(2)(B)(iii))**

Send completed form to:
Mail Stop PG Pub
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 305-8568

Application Number	10/774,814
Filing Date	February 9, 2004
First Named Inventor	Forth
Title	HUMAN MACHINE INTERFACE FOR AN ENERGY ANALYTICS SYSTEM
Atty Docket Number	6270/137
Group Art Unit	Not Yet Assigned
Examiner	Not Yet Assigned

A request that the above-identified application not be published under 35 U.S.C. 122(b) (nonpublication request) was included with the above-identified application on filing pursuant to 35 U.S.C. 122(b)(2)(B)(i). I hereby **rescind** the previous nonpublication request.

If a notice of foreign or international filing is or will be required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c), I hereby provide such notice. This notice is being provided no later than forty-five (45) days after the date of such foreign or international filing.

If a notice of subsequent foreign or international filing required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) was not filed within forty-five (45) days after the date of filing of the foreign or international application, the application is ABANDONED, and a petition to revive under 37 CFR 1.137(b) is required. See 37 CFR 1.137(f).

May 14, 2004

Date

Signature

James L. Katz (Reg. No. 42,711)

Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b).

If information or assistance is needed in completing this form, please contact the Pre-Grant Publication Division at (703) 605-4283 or by e-mail at PGPub@USPTO.gov.

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service via Express Mail Label No. EV 327 130 458 US in an envelope addressed to: Commissioner For Patents, Mail Stop PG Pub, Alexandria, VA 22313, on: May 14, 2004

Name (Print/Type) James L. Katz

Signature

Date

May 14, 2004

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously fled request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that rescission). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PG Pub, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Date of Deposit: May 14, 2004

Our Case No: 6270-137

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

J. Bradford Forth et al.

Serial No.: 10/774,814

Filing Date: February 9, 2004

For: HUMAN MACHINE INTERFACE
FOR AN ENERGY ANALYTICS
SYSTEM

Examiner: NOT YET ASSIGNED

Group Art Unit No.: NOT YET ASSIGNED

**STATEMENT ACCOMPANYING RECISSION OF PREVIOUS NONPUBLICATION
REQUEST 35 U.S.C. § 122(B)(2)(B)(ii)**

Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The above-captioned application was filed on February 9, 2004 along with a non-publication request. The above captioned application claims priority to U.S. Provisional Application Serial Nos. 60/445,788 (the "'788 provisional application") and 60/445,881 (the "'881 provisional application"), both filed on February 7, 2003.

On February 6, 2004, the Applicants filed a PCT application, serial no. PCT/US2004/003504 (also referred to by serial no. PCT/IB2004/000720) (the "PCT application") and a corresponding U.S. Patent Application No. 10/773,488 (the "'488 application"), both based on the '788 and '881 provisional applications. The '488 application was allowed to publish in the U.S.

The above captioned patent application and the PCT application share a substantially similar disclosure based on the '788 and '881 provisional applications

however, the above captioned application and the PCT application are not directly related and do not claim the same subject matter. Applicants' attorney believed that, at the time the above captioned application was filed, the term "invention", as it appears in 35 U.S.C. § 122(b)(2)(B)(i), and the phrase "directed to the invention", as it appears in 35 U.S.C. § 122(b)(2)(B)(iii), referred to "the claimed invention" of the above captioned application rather than the entire disclosure. Therefore, Applicants' attorney believed that the invention disclosed in the above-captioned application was not the subject of the PCT patent application.


Accordingly, Applicants' attorney believed that Applicant had complied with 35 U.S.C. § 122(b)(2)(B)(i) and that publication was not necessary. Therefore, the above captioned patent application was filed with a request not to publish and this request was not rescinded within 45 days of the filing of the PCT application as required by 35 U.S.C. § 122(b)(2)(B)(iii).

However, Applicants' attorney has since learned that the PTO interprets the above laws differently based on the entirety of the disclosures of the patent applications at issue and that, in fact, the above captioned application should have been published. Accordingly, Applicants' attorney's certification on the request for non-publication may be improper under 37 C.F.R. § 10.18(b). This improper certification arose through error and without deceptive intent.

Accordingly, the Applicants are filing herewith a Rescission of Previous Non-Publication Request 35 U.S.C. § 122(b)(2)(B)(ii) and, if applicable, Notice of Foreign Filing (35 U.S.C. 122(b)(2)(B)(iii)).

As the improper certification was made subsequent to a foreign filing, it is our understanding that the above captioned application is not abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii).

Respectfully submitted,



James L. Katz
Registration No. 42,711
Attorney for Applicant(s)

May 14, 2004

BRINKS HOFER GILSON & LIONE
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Chicago, IL 60610
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Forth et al.

Appln. No.: 10/774,814

Filed: February 9, 2004

For: HUMAN MACHINE INTERFACE FOR AN
ENERGY ANALYTICS SYSTEM

Examiner: Not Assigned

Art Unit: Not Assigned

Attorney Docket No: 6270/137

Mail Stop PGPUB
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ Recision of Previous Nonpublication Request; Statement Accompanying Recission of Previous Nonpublication Request.
- ☒ Return Receipt Postcard

Fee calculation:

- ☒ No additional fee is required.
- ☐ Small Entity.
- ☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
- ☐ A petition or processing fee in an amount of \$_____ under 37 C.F.R. § 1.17(_____).
- ☐ An additional filing fee has been calculated as shown below:

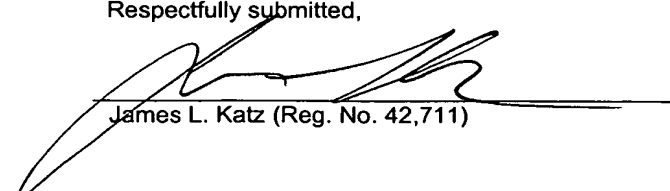
					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$9=			x \$18=	
Indep.		Minus			x 43=			x \$86=	
First Presentation of Multiple Dep. Claim					+\$145=			+\$290=	
					Total	\$		Total	\$

Fee payment:

- ☒ A check in the amount of \$_____ to cover the above-identified fee(s) is enclosed.
- ☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
- ☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
- ☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

5-14-04
Date


James L. Katz (Reg. No. 42,711)